

IN THE MATTER OF	*	BEFORE THE
CALVIN AND LINDA WILHIDE	*	BOARD OF APPEALS
LEGAL OWNERS AND PETITIONERS	*	OF
FOR SPECIAL HEARING ON THE PROPERTY	*	BALTIMORE COUNTY
LOCATED AT 2900 TOPAZ ROAD	*	Case No.: 24-025-SPH
9 <sup>th</sup> Election District	*	
6 <sup>th</sup> Council District	*	

\* \* \* \* \*

**OPINION**

This matter comes to the Board of Appeals of Baltimore County on appeal from a decision of Administrative Law Judge (“ALJ”) Maureen E. Murphy in which the Petition for Special Hearing to permit the long standing use of property located at 2900 Topaz Road (the “Property”) as a 3-unit apartment pursuant to Section 1B01.1.A.1.b and c. of the Baltimore County Zoning Regulations (“BCZR”) was ultimately dismissed and Petitioners’ amended Petition for Special Hearing was denied in part and granted in part as to approval of the building as a non-conforming use pursuant to BCZR § 104.1 subject to specific conditions as set forth by ALJ Murphy by Opinion and Order dated April 2, 2024.

The Petitioners, Calvin and Linda Wilhide, were represented Donna M. Berdych, Esquire. Emily D. Jolicoeur, Esquire appeared as Interim People’s Counsel for Baltimore County. No one else appeared in opposition to the request.

The Board held the hearing in this matter on September 18, 2024 and publicly deliberated immediately thereafter.

**BACKGROUND**

Calvin Wilhide, III and Linda Wilhide are the legal owners of property improved by a dwelling known as 2900 Topaz Road in the 9<sup>th</sup> Election District, 6<sup>th</sup> Council District of Baltimore County in the Parkville community (the “Property”). The Property is zoned D.R. 5.5

**In the matter of: Calvin and Linda Wilhide**  
**Case No: 24-025-SPH**

The Petitioners submitted a Petition for Special Hearing to permit the long-standing use of the Property as a 3-unit apartment pursuant to Section 1B01.1.A.1.b and c. of the Baltimore County Zoning Regulations to the Office of Administrative Hearings for Baltimore County.

At the hearing before ALJ Murphy, Petitioners and their counsel agreed with ALJ Murphy that in fact they were requesting approval for a non-conforming use under BCZR § 104.1 and thus, Petitioners orally amended their petition seeking such relief.

Following Petitioners' presentation of their case on the merits, ALJ Murphy requested that counsel provide a zoning history on the Property in order for her to properly consider the request for non-conforming use.

By Opinion and Order dated April 2, 2024, ALJ Murphy dismissed Petitioners' Petition for Special Hearing from BCZR 1B01.1A.1B; denied the amended Petition as to approval of use of the Property as a 3-unit apartment building finding that such use was illegal and; granted the amended Petition approving a 2-unit apartment building as a non-conforming use pursuant to BCZR, §104.1 subject to three conditions.

1. Petitioners may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioners are hereby made aware that proceeding at this time is at their own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioners would be required to return the subject property to its original condition.
2. Petitioners must register all rental units with the Baltimore County Rental Registration department and shall at all times maintain such registrations.
3. With regard to the basement unit (2900-A), the current tenant, Anthony Palmere, may continue to lease the basement unit during his lifetime unless terminated sooner by the Petitioners and/or subsequent owners. When Anthony Palmere no longer occupies and/or leases the basement unit, the basement unit shall terminate as an apartment unit and all living facilities and/or quarters including, without limitation, the kitchen, bathroom(s), and bedroom(s), shall be removed from the building within 60 days of vacancy. Thereafter, the building may continue to be used as a 2-unit apartment until such time that it no longer qualifies as a non-conforming 2-unit apartment building.

The ALJ Opinion was appealed by Petitioners to the Baltimore County Board of Appeals (the “Board”) on May 1, 2024. People’s Counsel and the Owners are collectively referred to as the “Parties.”

Petitioners indicated to this Board and to People’s Counsel that their appeal was limited to condition number three of the ALJ’s Opinion regarding the basement apartment. Specifically, the language in condition three that requires “all living facilities and/or quarters including, without limitation, the kitchen, bathroom(s), and bedroom(s), shall be removed from the building within 60 days of vacancy.” Petitioners otherwise did not dispute the ALJ’s Opinion.

### **CONCLUSION**

In light of the limited scope of this appeal, and in a mutual desire to resolve the amended Petition without further litigation and controversy, the Parties, proposed the following to the Board:

1. In lieu of demolition of the basement space, the Parties agree that when the basement tenant, Anthony Palmere, leaves or his tenancy is otherwise terminated, the Petitioners will remove the appliances in the kitchen and cap the gas leading to the stove so that there will no longer be a kitchen in use in the basement and they further agree that no kitchen appliances will be thereafter installed.
2. The Petitioners agree to take the action necessary and incur the expenses and file an affidavit (the “Affidavit”) consistent with the holding hereinto among the Land Records of Baltimore County, Maryland such that the Affidavit will run with the Property and bind the undersigned, their, his and her heirs, successors and assigns.
3. The Petitioners will file the Affidavit in the Lands Records of Baltimore County within ten (10) business days of the date of the Order by the Baltimore County Board of Appeals in this matter.
4. The Affidavit is attached hereto and incorporated herein by reference.

**ORDER**

**THEREFORE, IT IS THIS** 3rd day of December, 2024, by the Board of Appeals of Baltimore County,

**ORDERED** that the amended Petition for Special Hearing in case number 24-025-SPH, to permit the use of the Property at 2900 Topaz Road, in Parkville, Maryland, as a 2-unit apartment pursuant to Baltimore County Zoning Regulations Section 1B01.1.A.1.b and c is hereby **GRANTED** subject to the following conditions:

1. When the basement tenant, Anthony Palmere, vacates or his tenancy is otherwise terminated, Petitioners will remove the appliances in the kitchen and cap the gas leading to the stove so that there will no longer be a kitchen in use in the basement and no kitchen appliances will be thereafter installed. Thereafter, the building may continue to be used as a 2-unit apartment until such time that it no longer qualifies as a non-conforming 2-unit apartment building; and
2. Within ten (10) business days of the issuance of this Order by the Baltimore County Board of Appeals, Petitioners shall, at their sole cost and expense, file the Affidavit among the Land Records of Baltimore County, such that it will run with and bind the Property, the undersigned, their heirs, successors and assigns; and
3. The terms and conditions set forth in the attached Affidavit are incorporated herein by reference.

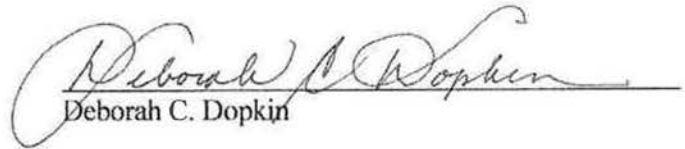
In the matter of: Calvin and Linda Wilhide  
Case No: 24-025-SPH

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through 7-210 of the Maryland Rules.

**BOARD OF APPEALS OF  
BALTIMORE COUNTY**



Sharonne R. Bonardi, Panel Chair



Deborah C. Dopkin



William H. Paulshock, Sr.

**BOARD OF APPEALS OF BALTIMORE COUNTY**  
**Case No. 2024-0025-SPH**

**2900 Topaz Road**  
**East Corner of Topaz Road and School Road**  
**Election District: 9, Council District: 6**

**Legal Owners: Calvin and Linda Wilhide**  
**Hearing Date 9/18/24, 10:00 a.m.**

**AFFIDAVIT OF CALVIN C. WILHIDE, III and LINDA J WILHIDE**

We, Calvin C. Wilhide, III and Linda J. Wilhide (hereinafter collectively the “undersigned” or “Owners”), state as follows:

1. The undersigned are over the age of 18 years and competent to testify.
2. The undersigned are owners of 2900 Topaz Road, Baltimore, Maryland 21234 (the “Property”) and have owned the Property since 1994, by virtue of a deed dated August 5, 1994 and recorded among the land records of Baltimore County in Liber 10687 folio 439.
3. When the undersigned purchased the Property, it was in the same condition as today, with an apartment in the basement (known as 2900A Topaz Road) and two apartments next to each other on the first and second floors.
4. The undersigned understand and accept Judge Maureen Murphy’s Order as to the conditions set forth in numbers 1 and 2 of said Order and, further understand and agree that when the tenant, Anthony Palmere, in the basement leaves the tenancy or his tenancy is otherwise terminated, the basement must cease use as a separate apartment and understand that the Property can, at that point, continue to be used as a 2-unit apartment until such time that it no longer qualifies as a non-conforming 2-unit apartment building.
5. The undersigned’s appeal of Judge Murphy’s ruling was limited to the Order essentially requiring demolition of the basement apartment upon the termination of Anthony

Palmere's tenancy.

6. In lieu of demolition of the basement space, the undersigned agree that when the basement tenant, Anthony Palmere, leaves or his tenancy is otherwise terminated, the undersigned will remove the appliances in the kitchen and cap the gas leading to the stove so that there will no longer be a kitchen in use in the basement and agree that no kitchen appliances will be thereafter installed.

7. The undersigned agree to take the action necessary and incur the expenses to file this affidavit with the land records such that it will follow the property and bind the undersigned, their, his and her heirs, successors and assigns to its contents.

8. The undersigned will file this affidavit within 10 business days of the date of the Order of the Baltimore County Board of Appeals in this matter.

9. This Agreement shall be binding on the below-named Owners, their heirs, successors, assigns and personal representatives, and the covenants and agreements contained herein shall run with the land at 2900 Topaz Road and all future owners thereof.

The undersign solemnly swear and affirm under the penalties of perjury that the contents of the foregoing affidavit are true to the best of their knowledge, information and belief, and are of their personal knowledge.

*Signatures and Notary are on next page*

OWNERS

Calvin C. Wilhide III 10/28/2024  
Calvin C. Wilhide, III Date

Linda J. Wilhide 10/28/2024  
Linda J. Wilhide Date

STATE OF MARYLAND  
COUNTY/CITY OF Baltimore Co, to wit:

Sworn to and subscribed before me by Calvin C. Wilhide, III and Linda J. Wilhide (affiant)  
on this 28<sup>th</sup> day of October 2024.

(Notary Seal)



[Handwritten Signature]

Signature of Notary Public

My Commission expires: December 10, 2024





## Board of Appeals of Baltimore County

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SECOND FLOOR, SUITE 203  
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December 3, 2024

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Emily D. Jolicoeur, People's Counsel  
Office of People's Counsel  
The Jefferson Building, Suite 204  
105 W. Chesapeake Avenue  
Towson, Maryland 21204

RE: In the Matter of: *Calvin and Linda Wilhide*  
Case No.: 24-025-SPH

Dear Counsel:

Enclosed please find a copy of the final Opinion and Order issued this date by the Board of Appeals of Baltimore County in the above subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*, **WITH A PHOTOCOPY PROVIDED TO THIS OFFICE CONCURRENT WITH FILING IN CIRCUIT COURT.** Please note that all Petitions for Judicial Review filed from this decision should be noted under the same civil action number. If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

A handwritten signature in cursive script that reads "Sunny Cannington".

Krysundra "Sunny" Cannington  
Executive Secretary

KLC/taz  
Enclosures  
Duplicate Original Cover Letter

c: Calvin and Linda Wilhide  
Thomas Wynn  
Maureen E. Murphy, Chief Administrative Law Judge  
Stephen Lafferty, Director/Department of Planning  
C. Pete Gutwald, Director/PAI  
James R. Benjamin, Jr., County Attorney/Office of Law